

DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

DRUGS FOR HUMAN USE*

2534. Alleged misbranding of Glyoxylide, Benzoquinone, and Malonide. U. S. v. Koch Laboratories, Inc., Dr. William F. Koch, and Louis Koch (2 indictments). Pleas of not guilty. Tried to a jury. No verdict rendered because of inability of jury to agree. Cases retried before second jury, but before verdict could be rendered, illness of one of twelve jurors required discharge of the jury. Case subsequently dismissed. (F. D. C. No. 6439. Sample Nos. 7694-E to 7696-E, incl., 23632-E, 23633-E, 63479-E, 72742-E, 72745-E, 73179-E, 73183-E, 79252-E, 79621-E.)

INDICTMENTS RETURNED: Between April 2 and 15, 1942, Eastern District of Michigan, against Koch Laboratories, Inc., Detroit, Mich., Dr. William F. Koch, president, and Louis Koch, secretary-treasurer.

ALLEGED SHIPMENT: On or about January 23 and February 2, 3, 4, 5, 6, and 19, 1942, from the State of Michigan into the States of California, Missouri, Kentucky, Indiana, and Oregon.

LABEL, IN PART: "Koch's Synthetic Antitoxins Glyoxylide Prepared from Aliphatic sulphonates We ascribe to it the formula OCCO Each ampoule contains approximately 2 cc. (dilution 10-12) for Allergy Cancer Infection Sold to Physicians Only"; "(Koch's Synthetic Antitoxins) * * * (1:4 Benzoquinone) Koch Each ampoule contains approximately 2 cc. aqueous solution (dilution 10-6) For the Infections and Their Sequelae Sold only to Physicians"; and "(Koch's Synthetic Antitoxins) Malonide O-c-c-c-O Each ampoule contains approximately 2 cc. aqueous solution (dilution 10-12) Anti-Allergic Sold Only to Physicians."

NATURE OF CHARGE: Misbranding, Section 502, (a), it was alleged that certain statements on the labels of the articles were false and misleading. The statements on the respective labels represented and suggested that the *Glyoxylide* was efficacious in the cure, mitigation, treatment, and prevention of cancer, allergic conditions, and infection, and that it was efficacious as an antitoxin; that the *Benzoquinone* was efficacious in the cure, mitigation, treatment, and prevention of infections and sequelae of infections, and that it was efficacious as an antitoxin; and that the *Malonide* was efficacious in the cure, mitigation, treatment, and prevention of allergies, and that it was efficacious as an antitoxin. The indictment charged that the products would not be efficacious for those purposes.

DISPOSITION: Pleas of not guilty having been entered, the matter came on for trial before a jury on January 12, 1943. The trial continued to May 28, 1943, at which time the jury announced that it was unable to agree upon a verdict. Retrial of the matter was held, beginning February 20, 1946, and continuing to July 23, 1946. On this latter date, the trial was ended when one of the members of the jury, then considering and deliberating upon a verdict, stated that because of illness he was unable to proceed. The Government's attorney moved the court to permit the 11 remaining jurors to continue their deliberations with a view to reaching a verdict, but because of the opposition of counsel for the defendant, the court discharged the jury. On August 17, 1948, the Government's attorney made a motion for the entry of an order of nolle prosequi, and, on the same date, the court entered an order to that effect.

2535. Misbranding of Glancaps. U. S. v. Darnell Drug Co., Wilbur F. Darnell, and George W. Darnell. Pleas of guilty. Fine of \$250 against company and \$10 against each individual. (F. D. C. No. 24265. Sample No. 83156-H.)

INFORMATION FILED: June 30, 1948, Southern District of Indiana, against the Darnell Drug Co., a partnership, Indianapolis, Ind., and Wilbur F. Darnell and George W. Darnell, partners in the partnership.

ALLEGED SHIPMENT: On or about July 15, 1947, from the State of Indiana into the State of Ohio.

LABEL, IN PART: "Glancaps * * * Active ingredients: Oil of Albasantal, minims 3. Oleoresin Cubeb, minims 2. Oil of Copaiba, minims 3. Rectified Oil of Terpen, minims 2. Extract of Zea Mays, grains 5. Each capsule contains 13.3 minims."

*See also Nos. 2502-2505, 2511-2517, 2521, 2523, 2524, 2526-2529, 2532, 2533.